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107TH CONGRESS
2^D SESSION

S. 2222

[Report No. 107-280]

To resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2002

Mr. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 13, 2002

Reported by Mr. BINGAMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 ~~Congress finds and declares that:~~

1 (1) Cape Fox Corporation (Cape Fox) is an
2 Alaska Native Village Corporation organized pursu-
3 ant to the Alaska Native Claims Settlement Act, as
4 amended, (ANCSA) (43 U.S.C. 1601, et seq.) for
5 the Native Village of Saxman.

6 (2) As with other ANCSA village corporations
7 in Southeast Alaska, Cape Fox was limited to select-
8 ing 23,040 acres under section 16 of ANCSA.

9 (3) Except for Cape Fox, all other Southeast
10 Alaska ANCSA village corporations were restricted
11 from selecting within two miles of a home rule city.

12 (4) To protect the watersheds in the vicinity of
13 Ketchikan, Cape Fox was restricted from selecting
14 lands within six miles from the boundary of the
15 home rule City of Ketchikan under section 22(1) of
16 ANCSA.

17 (5) The six mile restriction damaged Cape Fox
18 by precluding the corporation from selecting valuable
19 timber lands, industrial sites, and other commercial
20 property, not only in its core township but in sur-
21 rounding lands far removed from Ketchikan and its
22 watershed.

23 (6) As a result of the six mile restriction, only
24 the remote mountainous northeast corner of Cape
25 Fox's core township, which is nonproductive and of

1 no economic value, was available for selection by the
2 corporation. Selection of this parcel was, however,
3 mandated by section 16(b) of ANCSA.

4 (7) Cape Fox's land selections were further lim-
5 ited by the fact that the Annette Island Indian Res-
6 ervation is within its selection area, and those lands
7 were unavailable for ANCSA selection. Cape Fox is
8 the only ANCSA village corporation affected by this
9 restriction.

10 (8) Adjustment of Cape Fox's selections and
11 conveyances of land under ANCSA requires adjust-
12 ment of Sealaska Corporation's (Sealaska) selections
13 and conveyances to avoid creation of split estate be-
14 tween national forest surface and Sealaska sub-
15 surface lands.

16 (9) There is an additional need to resolve exist-
17 ing areas of Sealaska/Tongass National Forest split
18 estate.

19 (10) The Tongass National Forest lands identi-
20 fied in this Act for selection by and conveyance to
21 Cape Fox and Sealaska, subject to valid existing
22 rights, provide a means to resolve certain Cape Fox
23 and Sealaska ANCSA land entitlement issues with-
24 out significantly affecting Tongass National Forest
25 resources, uses or values.

1 (11) Adjustment of Cape Fox's selections and
 2 conveyances of land under ANCSA through the pro-
 3 visions of this Act, and the related adjustment of
 4 Sealaska's selections and conveyances hereunder, are
 5 in accordance with the purposes of ANCSA and oth-
 6 erwise in the public interest.

7 **SEC. 2. SHORT TITLE.**

8 This Act may be cited as the "Cape Fox Land Enti-
 9 tlement Adjustment Act of 2002".

10 **SEC. 3. WAIVER OF CORE TOWNSHIP REQUIREMENT FOR**
 11 **CERTAIN NON-PRODUCTIVE LANDS.**

12 Notwithstanding the provisions of section 16(b) of
 13 ANCSA, Cape Fox Corporation (Cape Fox) shall not be
 14 required to select or receive conveyance of approximately
 15 160 nonproductive acres, more particularly described as
 16 within the following described lands:

17 T. 75 S., R. 91 E., C.R.M., section 1.

18 **SEC. 4. SELECTION OUTSIDE EXTERIOR SELECTION**
 19 **BOUNDARY.**

20 (a) In addition to lands made available for selection
 21 under ANCSA and notwithstanding any other provision
 22 of law, within 24 months after the date of enactment of
 23 this Act, Cape Fox may select, and, upon receiving written
 24 notice of such selection, the Secretary of the Interior shall
 25 convey approximately 99 acres of the surface estate of

1 Tongass National Forest lands outside Cape Fox's current
 2 exterior selection boundary, specifically that parcel de-
 3 scribed as follows:

4 T. 73 S., R. 90 E., C.R.M.

5 Section 33: SW portion of SE $\frac{1}{4}$: 38 acres.

6 Section 33: NW portion of SE $\frac{1}{4}$: 13 acres.

7 Section 33: SE $\frac{1}{4}$ of SE $\frac{1}{4}$: 40 acres.

8 Section 33: SE $\frac{1}{4}$ of SW $\frac{1}{4}$: 8 acres.

9 (b) Upon conveyance to Cape Fox of the surface es-
 10 tate to the lands identified in subsection (a), the Secretary
 11 of the Interior shall convey to Sealaska Corporation
 12 (Sealaska) the subsurface estate to said lands.

13 (c) The Secretary of the Interior shall complete the
 14 interim conveyances to Cape Fox and Sealaska under this
 15 section within 180 days after the Secretary of the Interior
 16 receives notice of the Cape Fox selection under subsection
 17 (a).

18 **SEC. 5. EXCHANGE OF LANDS BETWEEN CAPE FOX AND**

19 **THE TONGASS NATIONAL FOREST.**

20 (a) The Secretary of Agriculture shall offer, and if
 21 accepted by Cape Fox, shall exchange the Federal lands
 22 described in subsection (b) for lands and interests therein
 23 identified by Cape Fox under subsection (c).

24 (b) The lands to be offered for exchange by the Sec-
 25 retary of Agriculture are Tongass National Forest lands

1 comprising approximately 2,663.9 acres in T. 36 S., R.
2 62 E., C.R.M. and T. 35 S., R. 62 E., C.R.M., as des-
3 ignated upon a map entitled “Proposed Kensington
4 Project Land Exchange”, dated March 18, 2002, and
5 available for inspection in the Forest Service Region 10
6 regional office in Juneau, Alaska. The Secretary of Agri-
7 culture shall exclude from the lands offered all land from
8 the mean high tide mark to a point five hundred feet in-
9 land of all marine shorelands in and adjacent to the waters
10 of Berners Bay; Provided, said exclusion shall not include
11 any lands in the Slate Creek Cove area within T. 36 S.,
12 R 62 E., C.R.M., section 1, W¹/₂ W¹/₂ or section 2, E¹/₂
13 E¹/₂.

14 (c) Cape Fox shall be entitled, within 60 days after
15 the date of enactment of this Act, to identify for exchange
16 lands that the Secretary of Agriculture agrees are equal
17 in value to the Federal exchange lands described in sub-
18 section (b). The lands shall be identified from lands pre-
19 viously conveyed to Cape Fox comprising approximately
20 3,000 acres and designated as parcels A-1 to A-3, B-
21 1 to B-3, and C upon a map entitled “Cape Fox Corpora-
22 tion ANCSA Lands Exchange Proposal”, dated March 15,
23 2002, and available for inspection in the Forest Service
24 Region 10 regional office in Juneau, Alaska. Lands identi-
25 fied for exchange within each parcel shall be contiguous

1 to adjacent national forest lands and in reasonably com-
2 pact tracts. Cape Fox shall notify the Secretaries of Agri-
3 culture and the Interior and Sealaska in writing which
4 lands and interests therein Cape Fox has identified for
5 exchange. The lands identified for exchange shall include
6 a public trail easement designated as D on said map, un-
7 less the Secretary of Agriculture agrees otherwise.

8 (d) The offer and conveyance of Federal lands to
9 Cape Fox in the exchange shall, notwithstanding section
10 14(f) of ANCSA, be of the surface and subsurface estate,
11 but subject to valid existing rights and all other provisions
12 of section 14(g) of ANCSA.

13 (e) The Secretary of Agriculture shall attempt, within
14 90 days after the date of enactment of this Act, to enter
15 into an agreement with Cape Fox to consummate the ex-
16 change. The lands identified in the exchange agreement
17 shall be exchanged by conveyance at the earliest possible
18 date after the exchange agreement is signed. Subject only
19 to Cape Fox agreement and conveyance to the United
20 States of all its right, title and interest in the Cape Fox
21 lands included in the exchange, the Secretary of Agri-
22 culture shall complete the exchange. Subject only to said
23 agreement and conveyance, the Secretary of the Interior
24 shall complete the interim conveyance to Cape Fox of the

1 Federal lands included in the exchange within 180 days
2 after the date of enactment of this Act.

3 **SEC. 6. EXCHANGE OF LANDS BETWEEN SEALASKA AND**
4 **THE TONGASS NATIONAL FOREST.**

5 (a) Upon conveyance by Cape Fox of all its right,
6 title and interest in the Cape Fox lands included in the
7 exchange under section 5 and conveyance and relinquish-
8 ment by Sealaska Corporation of all its right, title and
9 interest in the lands described in subsection (e), the Sec-
10 retary of the Interior shall convey to Sealaska the Federal
11 lands identified for exchange under subsection (b). Subject
12 only to said Cape Fox and Sealaska conveyances and relin-
13 quishment, the Secretary of the Interior shall complete the
14 interim conveyance to Sealaska of the Federal lands iden-
15 tified for exchange within 180 days after the date of enact-
16 ment of this Act.

17 (b) The lands to be exchanged to Sealaska are to be
18 selected by Sealaska from Tongass National Forest lands
19 comprising approximately 9,329 acres in T. 36 S., R. 62
20 E., C.R.M., T. 35 S., R. 62 E., C.R.M., and T. 34 S.,
21 Range 62 E., C.R.M., as designated upon a map entitled
22 "Proposed Sealaska Corporation Land Exchange Ken-
23 sington Lands Selection Area," dated April, 2002, and
24 available for inspection in the Forest Service Region 10
25 regional office in Juneau, Alaska. Sealaska shall be enti-

1 tled, within 60 days after receiving notice of the identifica-
2 tion of Cape Fox exchange lands under section 5(e), to
3 identify for exchange to Sealaska lands that the Secretary
4 of Agriculture agrees are equal in value to the Sealaska
5 exchange lands described in subsection (e). Lands identi-
6 fied for exchange to Sealaska shall be in no more than
7 two contiguous and reasonably compact tracts that adjoin
8 the lands described for exchange to Cape Fox in section
9 5(b). Sealaska shall notify Cape Fox and the Secretaries
10 of Agriculture and the Interior in writing which lands
11 Sealaska has identified for exchange. The exchange con-
12 veyance to Sealaska shall be of the surface and subsurface
13 estate in the lands identified, but subject to valid existing
14 rights and all other provisions of section 14(g) of ANCSA.

15 (e) The lands and interests therein to be exchanged
16 by Sealaska are the subsurface estate underlying the Cape
17 Fox exchange lands described in section 5(e), an addi-
18 tional approximately 2,506 acres of the subsurface estate
19 underlying Tongass National Forest surface estate, de-
20 scribed in Interim Conveyance No. 1673, and rights to an
21 additional approximately 2,698 acres of subsurface estate
22 of Tongass National Forest lands remaining to be con-
23 veyed to Sealaska from Group 1, 2, and 3 lands set forth
24 in the Sealaska Corporation/United States Forest Service

1 Split Estate Exchange Agreement of November 26, 1991,
2 at Schedule B, as modified on January 20, 1995.

3 (d) The exchange under this section shall be consid-
4 ered a further modification of the Sealaska Corporation/
5 United States Forest Service Split Estate Exchange
6 Agreement, as ratified in section 17 of Public Law 102-
7 415 (October 14, 1992).

8 **SEC. 7. MISCELLANEOUS PROVISIONS.**

9 (a) For the exchanges described in this Act, estimates
10 of value for exchange purposes shall be completed from
11 available information, and detailed appraisals of the ex-
12 change lands or additional resource inventories shall not
13 be required.

14 (b) Any conveyance of federal surface or subsurface
15 lands to Cape Fox or Sealaska under this Act shall be
16 considered, for all purposes, land conveyed pursuant to
17 ANCSA in partial fulfillment of, respectively, the entitle-
18 ment of Cape Fox or Sealaska. The exchanges described
19 in this Act shall be considered, for all purposes, actions
20 which lead to the issuance of conveyances to Native Cor-
21 porations pursuant to ANCSA. Lands or interests therein
22 transferred to the United States under this Act shall be-
23 come and be administered as part of the Tongass National
24 Forest.

1 (c) Lands conveyed to or selected by the State of
2 Alaska under Public Law 85-508 (72 Stat. 339, 48
3 U.S.C. note prec. 21) shall not be eligible for selection or
4 conveyance under this Act without the consent of the State
5 of Alaska.

6 (d) The maps referred to in this Act shall be main-
7 tained on file in the Forest Service Region 10 regional
8 office in Juneau, Alaska. The acreage cited in this section
9 is approximate, and if there is any discrepancy between
10 cited acreage and the land depicted on the specified maps,
11 the maps shall control. The maps do not constitute an at-
12 tempt by the United States to convey State or private
13 land.

14 **SEC. 8. AUTHORIZATION OF APPROPRIATION.**

15 There is authorized to be appropriated to the Sec-
16 retary of the Department of Agriculture such sums as may
17 be necessary for any required surveys, value estimation
18 and related costs of exchanging lands specified in this Act,
19 and for habitat and timber stand improvement, including
20 thinning and pruning, on lands acquired by the Depart-
21 ment of Agriculture under this Act.

22 **SECTION 1. SHORT TITLE.**

23 *This Act may be cited as the "Cape Fox Land Entitle-*
24 *ment Adjustment Act of 2002".*

1 **SEC. 2. FINDINGS.**

2 *Congress finds that:*

3 (1) *Cape Fox Corporation (Cape Fox) is an*
4 *Alaska Native Village Corporation organized pursu-*
5 *ant to the Alaska Native Claims Settlement Act*
6 *(ANCSA) (43 U.S.C. 1601 et seq.) for the Native Vil-*
7 *lage of Saxman.*

8 (2) *As with other ANCSA village corporations in*
9 *Southeast Alaska, Cape Fox was limited to selecting*
10 *23,040 acres under section 16 of ANCSA.*

11 (3) *Except for Cape Fox, all other Southeast*
12 *Alaska ANCSA village corporations were restricted*
13 *from selecting within two miles of a home rule city.*

14 (4) *To protect the watersheds in the vicinity of*
15 *Ketchikan, Cape Fox was restricted from selecting*
16 *lands within six miles from the boundary of the home*
17 *rule City of Ketchikan under section 22(1) of ANCSA*
18 *(43 U.S.C. 1621(1)).*

19 (5) *The six mile restriction damaged Cape Fox*
20 *by precluding the corporation from selecting valuable*
21 *timber lands, industrial sites, and other commercial*
22 *property, not only in its core township but in sur-*
23 *rounding lands far removed from Ketchikan and its*
24 *watershed.*

25 (6) *As a result of the six mile restriction, only*
26 *the remote mountainous northeast corner of Cape*

1 *Fox's core township, which is nonproductive and of*
2 *no known economic value, was available for selection*
3 *by the corporation. Selection of this parcel was, how-*
4 *ever, mandated by section 16(b) of ANCSA (43 U.S.C.*
5 *1615(b)).*

6 (7) *Cape Fox's land selections were further lim-*
7 *ited by the fact that the Annette Island Indian Res-*
8 *ervation is within its selection area, and those lands*
9 *were unavailable for ANCSA selection. Cape Fox is*
10 *the only ANCSA village corporation affected by this*
11 *restriction.*

12 (8) *Adjustment of Cape Fox's selections and con-*
13 *veyances of land under ANCSA requires adjustment*
14 *of Sealaska Corporation's (Sealaska) selections and*
15 *conveyances to avoid creation of additional split es-*
16 *tate between National Forest System surface lands*
17 *and Sealaska subsurface lands.*

18 (9) *There is an additional need to resolve exist-*
19 *ing areas of Sealaska/Tongass split estate, in which*
20 *Sealaska holds title or conveyance rights to several*
21 *thousand acres of subsurface lands that encumber*
22 *management of Tongass National Forest surface*
23 *lands.*

24 (10) *The Tongass National Forest lands identi-*
25 *fied in this Act for selection by and conveyance to*

1 *Cape Fox and Sealaska, subject to valid existing*
2 *rights, provide a means to resolve some of the Cape*
3 *Fox and Sealaska ANCSA land entitlement issues*
4 *without significantly affecting Tongass National For-*
5 *est resources, uses or values.*

6 *(11) Adjustment of Cape Fox's selections and*
7 *conveyances of land under ANCSA through the provi-*
8 *sions of this Act, and the related adjustment of*
9 *Sealaska's selections and conveyances hereunder, are*
10 *in accordance with the purposes of ANCSA and other-*
11 *wise in the public interest.*

12 **SEC. 3. WAIVER OF CORE TOWNSHIP REQUIREMENT FOR**
13 **CERTAIN LANDS.**

14 *Notwithstanding the provisions of section 16(b) of*
15 *ANCSA (43 U.S.C. 1615(b)), Cape Fox shall not be required*
16 *to select or receive conveyance of approximately 160 acres*
17 *of federal unconveyed lands within Section 1, T. 75 S., R.*
18 *91 E., C.R.M.*

19 **SEC. 4. SELECTION OUTSIDE EXTERIOR SELECTION**
20 **BOUNDARY.**

21 *(a) SELECTION AND CONVEYANCE OF SURFACE ES-*
22 *TATE.—In addition to lands made available for selection*
23 *under ANCSA, within 24 months after the date of enact-*
24 *ment of this Act, Cape Fox may select, and, upon receiving*
25 *written notice of such selection, the Secretary of the Interior*

1 shall convey approximately 99 acres of the surface estate
 2 of Tongass National Forest lands outside Cape Fox's cur-
 3 rent exterior selection boundary, specifically that parcel de-
 4 scribed as follows:

- 5 (1) T. 73 S., R. 90 E., C.R.M.
 6 (2) Section 33: SW portion of SE $\frac{1}{4}$: 38 acres.
 7 (3) Section 33: NW portion of SE $\frac{1}{4}$: 13 acres.
 8 (4) Section 33: SE $\frac{1}{4}$ of SE $\frac{1}{4}$: 40 acres.
 9 (5) Section 33: SE $\frac{1}{4}$ of SW $\frac{1}{4}$: 8 acres.

10 (b) *CONVEYANCE OF SUBSURFACE ESTATE.*—Upon
 11 conveyance to Cape Fox of the surface estate to the lands
 12 identified in subsection (a), the Secretary of the Interior
 13 shall convey to Sealaska the subsurface estate to the lands.

14 (c) *TIMING.*—The Secretary of the Interior shall com-
 15 plete the interim conveyances to Cape Fox and Sealaska
 16 under this section within 180 days after the Secretary of
 17 the Interior receives notice of the Cape Fox selection under
 18 subsection (a).

19 **SEC. 5. EXCHANGE OF LANDS BETWEEN CAPE FOX AND THE**
 20 **TONGASS NATIONAL FOREST.**

21 (a) *GENERAL.*—The Secretary of Agriculture shall
 22 offer, and if accepted by Cape Fox, shall exchange the fed-
 23 eral lands described in subsection (b) for lands and interests
 24 therein identified by Cape Fox under subsection (c) and,

1 *to the extent necessary, lands and interests therein identi-*
2 *fied under subsection (d).*

3 (b) *LANDS TO BE EXCHANGED TO CAPE FOX.*—The
4 *lands to be offered for exchange by the Secretary of Agri-*
5 *culture are Tongass National Forest lands comprising ap-*
6 *proximately 2,663.9 acres in T. 36 S., R. 62 E., C.R.M.*
7 *and T. 35 S., R. 62 E., C.R.M., as designated upon a map*
8 *entitled “Proposed Kensington Project Land Exchange,”*
9 *dated March 18, 2002, and available for inspection in the*
10 *Forest Service Region 10 regional office in Juneau, Alaska.*

11 (c) *LANDS TO BE EXCHANGED TO THE UNITED*
12 *STATES.*—Cape Fox shall be entitled, within 60 days after
13 the date of enactment of this Act, to identify in writing
14 to the Secretaries of Agriculture and the Interior the lands
15 and interests in lands that Cape Fox proposes to exchange
16 for the federal lands described in subsection (b). The lands
17 and interests in lands shall be identified from lands pre-
18 viously conveyed to Cape Fox comprising approximately
19 2,900 acres and designated as parcels A-1 to A-3, B-1 to
20 B-3, and C upon a map entitled “Cape Fox Corporation
21 ANCSA Land Exchange Proposal,” dated March 15, 2002,
22 and available for inspection in the Forest Service Region
23 10 regional office in Juneau, Alaska. Lands identified for
24 exchange within each parcel shall be contiguous to adjacent
25 National Forest System lands and in reasonably compact

1 tracts. The lands identified for exchange shall include a
2 public trail easement designated as D on said map, unless
3 the Secretary of Agriculture agrees otherwise. The value of
4 the easement shall be included in determining the total
5 value of lands exchanged to the United States.

6 (d) VALUATION OF EXCHANGE LANDS.—The Secretary
7 of Agriculture shall determine whether the lands identified
8 by Cape Fox under subsection (c) are equal in value to the
9 lands described in subsection (b). If the lands identified
10 under subsection (c) are determined to have insufficient
11 value to equal the value of the lands described in subsection
12 (b), Cape Fox and the Secretary shall mutually identify
13 additional Cape Fox lands for exchange sufficient to equal-
14 ize the value of lands conveyed to Cape Fox. Such land shall
15 be contiguous to adjacent National Forest System lands and
16 in reasonably compact tracts.

17 (e) CONDITIONS.—The offer and conveyance of Federal
18 lands to Cape Fox in the exchange shall, notwithstanding
19 section 14(f) of ANCSA, be of the surface and subsurface
20 estate, but subject to valid existing rights and all other pro-
21 visions of section 14(g) of ANCSA.

22 (f) TIMING.—The Secretary of Agriculture shall at-
23 tempt, within 90 days after the date of enactment of this
24 Act, to enter into an agreement with Cape Fox to consum-
25 mate the exchange consistent with this Act. The lands iden-

1 *tified in the exchange agreement shall be exchanged by con-*
 2 *veyance at the earliest possible date after the exchange*
 3 *agreement is signed. Subject only to conveyance from Cape*
 4 *Fox to the United States of all its rights, title and interests*
 5 *in the Cape Fox lands included in the exchange consistent*
 6 *with this Act, the Secretary of the Interior shall complete*
 7 *the interim conveyance to Cape Fox of the federal lands*
 8 *included in the exchange within 180 days after the execu-*
 9 *tion of the exchange agreement by Cape Fox and the Sec-*
 10 *retary of Agriculture.*

11 **SEC. 6. EXCHANGE OF LANDS BETWEEN SEALASKA AND**
 12 **THE TONGASS NATIONAL FOREST.**

13 (a) *GENERAL.*—*Upon conveyance of the Cape Fox*
 14 *lands included in the exchange under section 5 and convey-*
 15 *ance and relinquishment by Sealaska in accordance with*
 16 *this Act of the lands and interests in lands described in*
 17 *subsection (c), the Secretary of the Interior shall convey to*
 18 *Sealaska the federal lands identified for exchange under*
 19 *subsection (b).*

20 (b) *LANDS TO BE EXCHANGED TO SEALASKA.*—*The*
 21 *lands to be exchanged to Sealaska are to be selected by*
 22 *Sealaska from Tongass National Forest lands comprising*
 23 *approximately 9,329 acres in T. 36 S., R. 62 E., C.R.M.,*
 24 *T. 35 S., R. 62 E., C.R.M., and T. 34 S., Range 62 E.,*
 25 *C.R.M., as designated upon a map entitled “Proposed*

1 *Sealaska Corporation Land Exchange Kensington Lands*
2 *Selection Area,” dated April 2002 and available for inspec-*
3 *tion in the Forest Service Region 10 Regional Office in Ju-*
4 *neau, Alaska. Within 60 days after receiving notice of the*
5 *identification by Cape Fox of the exchange lands under Sec-*
6 *tion 5(c), Sealaska shall be entitled to identify in writing*
7 *to the Secretaries of Agriculture and the Interior the lands*
8 *that Sealaska selects to receive in exchange for the Sealaska*
9 *lands described in subsection (c). Lands selected by*
10 *Sealaska shall be in no more than two contiguous and rea-*
11 *sonably compact tracts that adjoin the lands described for*
12 *exchange to Cape Fox in section 5(b). The Secretary of Ag-*
13 *riculture shall determine whether these selected lands are*
14 *equal in value to the lands described in subsection (c) and*
15 *may adjust the amount of selected lands in order to reach*
16 *agreement with Sealaska regarding equal value. The ex-*
17 *change conveyance to Sealaska shall be of the surface and*
18 *subsurface estate in the lands selected and agreed to by the*
19 *Secretary but subject to valid existing rights and all other*
20 *provisions of section 14(g) of ANCSA.*

21 (c) *LANDS TO BE EXCHANGED TO THE UNITED*
22 *STATES.—The lands and interests therein to be exchanged*
23 *by Sealaska are the subsurface estate underlying the Cape*
24 *Fox exchange lands described in section 5(c), an additional*
25 *approximately 2,506 acres of the subsurface estate under-*

1 *lying Tongass National Forest surface estate, described in*
2 *Interim Conveyance No. 1673, and rights to be additional*
3 *approximately 2,698 acres of subsurface estate of Tongass*
4 *National Forest lands remaining to be conveyed to Sealaska*
5 *from Group 1, 2 and 3 lands as set forth in the Sealaska*
6 *Corporation/United States Forest Service Split Estate Ex-*
7 *change Agreement of November 26, 1991, at Schedule B, as*
8 *modified on January 20, 1995.*

9 (d) *TIMING.—The Secretary of Agriculture shall at-*
10 *tempt, within 90 days after receipt of the selection of lands*
11 *by Sealaska under subsection (b), to enter into an agree-*
12 *ment with Sealaska to consummate the exchange consistent*
13 *with this Act. The lands identified in the exchange agree-*
14 *ment shall be exchanged by conveyance at the earliest pos-*
15 *sible date after the exchange agreement is signed. Subject*
16 *only to the Cape Fox and Sealaska conveyances and*
17 *relinquishments described in subsection (a), the Secretary*
18 *of the Interior shall complete the interim conveyance to*
19 *Sealaska of the federal lands selected for exchange within*
20 *180 days after execution of the agreement by Sealaska and*
21 *the Secretary of Agriculture.*

22 (e) *MODIFICATION OF AGREEMENT.—The executed ex-*
23 *change agreement under this section shall be considered a*
24 *further modification of the Sealaska Corporation/United*
25 *States Forest Service Split Estate Exchange Agreement, as*

1 *ratified in section 17 of Public Law 102-415 (October 14,*
2 *1992).*

3 **SEC. 7. MISCELLANEOUS PROVISIONS.**

4 (a) *EQUAL VALUE REQUIREMENT.*—*The exchanges de-*
5 *scribed in this Act shall be of equal value. Cape Fox and*
6 *Sealaska shall have the opportunity to present to the Sec-*
7 *retary of Agriculture estimates of value of exchange lands*
8 *with supporting information.*

9 (b) *TITLE.*—*Cape Fox and Sealaska shall convey and*
10 *provide evidence of title satisfactory to the Secretary of Ag-*
11 *riculture for their respective lands to be exchanged to the*
12 *United States under this Act, subject only to exceptions, res-*
13 *ervations and encumbrances in the interim conveyance or*
14 *patent from the United States or otherwise acceptable to*
15 *the Secretary of Agriculture.*

16 (c) *HAZARDOUS SUBSTANCES.*—*Cape Fox, Sealaska,*
17 *and the United States each shall not be subject to liability*
18 *for the presence of any hazardous substance in land or in-*
19 *terests in land solely as a result of any conveyance or trans-*
20 *fer of the land or interests under this Act.*

21 (d) *EFFECT ON ANCSA SELECTIONS.*—*Any convey-*
22 *ance of federal surface or subsurface lands to Cape Fox or*
23 *Sealaska under this Act shall be considered, for all purposes,*
24 *land conveyed pursuant to ANCSA. Nothing in this Act*
25 *shall be construed to change the total acreage of land entitle-*

1 *ment of Cape Fox or Sealaska under ANCSA. Cape Fox*
2 *and Sealaska shall remain charged for any lands they ex-*
3 *change under this Act and any lands conveyed pursuant*
4 *to section 4, but shall not be charged for any lands received*
5 *under section 5 or section 6. The exchanges described in*
6 *this Act shall be considered, for all purposes, actions which*
7 *lead to the issuance of conveyances to Native Corporations*
8 *pursuant to ANCSA. Lands or interests therein transferred*
9 *to the United States under this Act shall become and be*
10 *administered as part of the Tongass National Forest.*

11 *(e) EFFECT ON STATEHOOD SELECTIONS.—Lands*
12 *conveyed to or selected by the State of Alaska under the*
13 *Alaska Statehood Act (Public Law 85–508; 72 Stat. 339;*
14 *48 U.S.C. note prec. 21) shall not be eligible for selection*
15 *or conveyance under this Act without the consent of the*
16 *State of Alaska.*

17 *(f) MAPS.—The maps referred to in this Act shall be*
18 *maintained on file in the Forest Service Region 10 Regional*
19 *Office in Juneau, Alaska. The acreages cited in this Act*
20 *are approximate, and if there is any discrepancy between*
21 *cited acreage and the land depicted on the specified maps,*
22 *the maps shall control. The maps do not constitute an at-*
23 *tempt by the United States to convey State or private land.*

24 *(g) EASEMENTS.—Notwithstanding section 17(b) of*
25 *ANCSA, federal lands conveyed to Cape Fox or Sealaska*

1 *pursuant to this Act shall be subject only to the reservation*
2 *of public easements mutually agreed to and set forth in the*
3 *exchange agreements executed under this Act. The easements*
4 *shall include easements necessary for access across the lands*
5 *conveyed under this Act for use of national forest or other*
6 *public lands.*

7 *(h) OLD GROWTH RESERVES.—The Secretary of Agri-*
8 *culture shall add an equal number of acres to old growth*
9 *reserves on the Tongass National Forest as are transferred*
10 *out of Federal ownership as a result of this Act.*

11 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

12 *(a) DEPARTMENT OF AGRICULTURE.—There are au-*
13 *thorized to be appropriated to the Secretary of Agriculture*
14 *such sums as may be necessary for value estimation and*
15 *related costs of exchanging lands specified in this Act, and*
16 *for road rehabilitation, habitat and timber stand improve-*
17 *ment, including thinning and pruning, on lands acquired*
18 *by the United States under this Act.*

19 *(b) DEPARTMENT OF THE INTERIOR.—There are au-*
20 *thorized to be appropriated to the Secretary of the Interior*
21 *such sums as may be necessary for land surveys and convey-*
22 *ances pursuant to this Act.*

Calendar No. 599

107TH CONGRESS
2D SESSION

S. 2222

[Report No. 107-280]

A BILL

To resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes.

SEPTEMBER 13, 2002

Reported with an amendment